

**GOVERNMENT OF ANDHRA PRADESH
A B S T R A C T**

Public Services – Irrigation and CAD Department – Irregularities committed in the execution of works pertaining to the construction of reservoir across Paleru in Nelturi Gollapallil Village, Kanigiri Taluk of Prakasam District – Disciplinary action against Sri M.Nagi Reddy, Assistant Engineer –Punishment awarded - O.A.No. 3420/2006 filed in the APAT – Judgment delivered- Implementation of A.P.A.T. orders- Orders –Issued .

IRRIGATION & CAD (SER.X) DEPARTMENT

G.O.Rt.No. 381

Dated: 01 -04-2010.

Read the following:

- 1) G.O.Ms.No.460, Irrigation Department, dt.14.12.1984.
- 2) From Sri M.Rahamatullah Khan, COE and EO Lr.No.62/COE/B4/9,dt.15-1-1986.
- 3) G.O.Ms.No.387, I&CAD(CAD.Ser.-II) Deptt., dt.11.04.1997.
- 4) Orders of APAT dt. 6-9-2000 in O.A.No.7387/97 filed Sri Nagi Reddy,A. E(Retd)
- 5) G.O.Ms.No.1210, I&CAD(CAD.Ser.-II) Deptt., dt.03.11.2001
- 6) MmeoNo. 57644/CAD-Ser-II(2) /97-6,dt. 3-11-2001.
- 7) From the Secretary ,TDP,Lr.No. 286, dt. 19-3-2005.
- 8) G.O.Rt.No.659, I & CAD (Ser.X.2) Department, dt. 21.4.2006
- 9)Orders of APAT dt.2.6.2009 in O.A.No. 3420/2006 filed Sri Nagi Reddy,A. E(Retd)
- 10) Reprn. of Sri Nagi Reddy, A. E(Retired) , dt. 18-6-09 &15-2-2010

ORDER:

In the Government Order 1st read above, Sri M.Rahamatullah Khan, the then Commissioner of Enquiries was appointed as Enquiry Officer to conduct departmental enquiry against 11 Officers including Sri Nagi Reddy, Asst. Engineer for their irregularities in the execution of works pertaining to the construction of reservoir across Paleru in Nellaturi Gollapalli (v), Kanigiri Taluk of Prakasam District.

2. The Enquiry Officer has conducted the enquiry and submitted his report. After examining the enquiry report of the Inquiry Officer, orders were issued in G.O. Rt. No.387, dt.11-4-97 imposing the penalty of reduction to a lower stage of minimum in the time scale of Asst. Engineer on Sri M.Nagi Reddy, Asst. Engineer after following due procedure, along with other 10 officers.

3. Aggrieved by above orders, Sri Nagi Reddy, Asst. Engineer has filed O.A.No. 7387/97 before A.P.A.T. The Hon'ble Tribunal in its orders dated 6.9.2000 in batch cases has set aside the impugned orders issued in G.O. Ms.No.387, dated.11-4-97 and allowed the O.A. interpreting the section-4 of A.P.C.S. (Disciplinary proceedings Tribunal) Act, 1960.

4. Govt. have examined the orders of A.P.A.T., and implemented the same by canceling the punishment orders issued against him. Further, the case of Sri M. Nagi Reddy, Asst Engineer was referred for enquiry before Tribunal for Disciplinary Proceeding, and informed that Chief Engineer , Minor Irrigation will produce connected original records pertaining to the case. Accordingly, the Chief Engineer , Minor Irrigation directed to appoint the Liaison Officer . The Chief Engineer , Minor has appointed Liaison Officer in his Ir.dt.9.8.2004, i.e., after a lapse of 2 years 8 months. However, the Liaison Officer on 19.3.2005 approached the Tribunal for Disciplinary Proceeding, along with original records.

5. The Secretary, Tribunal for Disciplinary Proceeding in his letter dated:19.3.2005 has informed that Sri M.Nagi Reddy, A.E. retired from service on 30.6.2003, on attaining the age of Superannuation, and he has requested to examine the entire matter afresh and issue necessary orders under Rule 9(2) (b) of APRP Rules, 1980.

6. Govt. have examined the matter and decided to entrust the case to departmental inquiry Officer, as the case is covered by sub-rule (2) (a) of Rule 9 read with sub rule (6) of rule 9 of APRP Rules, 1980. Accordingly , the case has been withdrawn from Tribunal for Disciplinary Proceeding under section 4A of A.P.Civil Services (DPT) Act, 1960, and entrusted to Commissioner of Inquiry under Rule 9 (2)(a) read with sub rule (6) of rule 9 of APRP Rules, 1980, vide G.O. 8th read above, appointing Smt. Chandana Khan, IAS as enquiry officer.

7. Aggrieved by the above orders , Sri M.Nagi Reddy, Retd A.E. has again filed O.A.No.3420/2006 in the A.P.A.T., Hyderabad . The Hon'ble A.P.A.T. while admitting the

case has delivered the final judgment on 2.6.2009 in O.A.No. 3420/2006. The operation portion of the judgment are as follows:

“.....as the Tribunal for disciplinary proceedings did not issue any charge memo. or any notice to the applicant after the matter was referred to the said Tribunal by the Government, it should be deemed that the disciplinary proceedings have never been initiated against the applicant before his retirement, and after the matter has been remitted back to the Government from the Tribunal for Disciplinary proceedings, the respondents have no powers to issue any orders under Rule 9(2)(a) of the A.P. Revised Pension Rules, as the incident relates to the period from 1978 to 1981 i.e more than 20 years old. Even other wise, the respondent-Government has no power to initiate disciplinary proceedings against the applicant, in view of the specific findings by this Tribunal in O.A.No.7387/1997, directing the respondents to refer the matter to the Tribunal for Disciplinary proceedings. Further, on perusal of the records with reference to the charges framed against the applicant, it is clear that they do not relate to misappropriation or maladministration of funds, but only relate to commissions and omissions on the part of the application while taking measurement of the Ayacut. In view of the above, circumstances, it has to be held that the respondents have no power to issue the impugned orders, as the applicant's case falls under Rule 9(2)(b) of the A.P. Revised Pension Rules, 1980 and not sub-rule 2(a) of Rule 9 read with sub-rule (6) of Rule 9 of the said rules, as the charge memo. and the earlier proceedings issued got merged in the orders of the Tribunal in O.A.No.7387/1997 and have become non est in the eye of law, and therefore, the impugned proceedings cannot be held to be in continuity of the earlier proceedings, as contemplated by the respondents.

Further the respondents cannot issue any fresh charge memo. with reference to the incident which occurred during the period 1978 to 1981, more so when the charges do not relate to misappropriation or maladministration of funds. Therefore, the impugned orders in G.O.Rt.No.659, I & CAD(Ser.X.2) Department, dt. 21.4.2006 are set-aside, as the respondents have no jurisdiction to issue the same, in view of the specific findings and directions issued by this Tribunal in O.A.No.7387/1997, dt. 6.9.2000. Accordingly, O.A. is allowed. V.M.A. is dismissed. No costs.”

8. In the reference 10th read above , Sri M. Nagireddy, Asst Engineer (Retd) in his representation has requested the Govt. to implement the orders of the Hon'ble A.P.A.T dt. 2-6-2009 in O.A.No. 3420/2006 as the A.P.A.T., has set-aside the impugned orders issued in G.O.Rt.No.659, I & CAD (Ser.X.2) Department, dt. 21.4.2006 and to release all his pensionary benefits duly sanctioning promotion scales as eligible and fixing the pay scale at the time of retirement.

9. Government after careful examination of the matter have decided to implement the orders of A.P.A.T by dropping further action against Sri M. Nagi Reddy, Asst Engineer (Retd) and release the pensionary benefits. Accordingly, hereby order to implement the orders of A.P.A.T., dt. 2-6-2009 in O.A.No. 3420/2006 , and drop further action against him and to release the pensionary benefits.

10. The Engineer-in-Chief (AW),Hyderabad, shall take necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.P.TUCKER
PRINCIPAL SECRETARY TO GOVERNMENT

To
Sri M. Nagireddy, Asst Engineer (Retd)
through the Engineer-in-Chief (AW, I&CAD Deptt.,
The Engineer-in-Chief (AW, I&CAD Deptt.,
Copy to :
The Secretary , A.P. Vigilance Commission, Hyderabad
The Account General , A.P., Hyderabad .
SFSC

//FORWARDED: : BY ORDER//

SECTION OFFICER